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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

JANE ROE, an individual; MARY ROE,
an individual; SUSAN ROE, an
individual; JOHN ROE, an individual;
BARBARA ROE, an individual;
PHOENIX HOTEL SF, LLC, a
California limited liability company;
FUNKY FUN, LLC, a California limited
liability company; and 2930 EL
CAMINO, LLC, a California limited
liability company,

Plaintiffs,

v.

CITY AND COUNTY OF SAN
FRANCISCO, a California public entity,

Defendants.

Case No. 4:24-cv-01562-AMO

**PLAINTIFFS' MOTION FOR
ADMINISTRATIVE RELIEF
REQUESTING PERMISSION TO
USE A PSEUDONYM ON PUBLICLY
FILED PLEADINGS**

*FILED CONCURRENTLY WITH
PLAINTIFFS MOTION FOR
ADMINISTRATIVE RELIEF TO FILE
DECLARATIONS UNDER SEAL*

**ASSIGNED FOR ALL PURPOSES
TO THE HONORABLE ARACELI
MARTINEZ-OLGUIN, COURTROOM
10**

Action Filed: 03/14/2024
Trial Date: Unassigned

1 PLEASE TAKE NOTICE that, pursuant to Civil Local Rule 7-11, the five
2 Plaintiffs who filed this complaint using pseudonyms, identified as Jane Roe, Mary
3 Roe, Susan Roe, John Roe and Barbara Roe (collectively the “Individual Plaintiffs”),
4 move this Court for an order to provide them leave from the requirements of Federal
5 Rule of Civil Procedure 10(a) and permission to use a pseudonym in all publicly filed
6 pleadings.

7 I. INTRODUCTION

8 This suit seeks injunctive and equitable relief only relating to harms allegedly
9 caused by defendant City and County of San Francisco’s (“City”) *de facto* treatment of
10 the Tenderloin as San Francisco’s “containment zone” for illegal narcotics activities
11 and associated crimes. The Individual Defendants all reside in the Tenderloin. Public
12 disclosure of their true names would expose them to the risk of physical retaliation
13 by those involved in the illegal narcotics trade. The City would experience little to no
14 prejudice if this motion is granted because the Individual Plaintiffs have already
15 agreed that their true names and relevant information can be disclosed to the City,
16 subject to an appropriate protective order.

17 II. LEGAL STANDARD

18 A party may preserve his or her anonymity in judicial proceedings in special
19 circumstances when the party’s need for anonymity outweighs prejudice to the
20 opposing party and the public’s interest in knowing the party’s identity. (*Does I thru*
21 *XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1068 (9th Cir. 2000).) Federal courts
22 have allowed plaintiffs to use pseudonyms for various reasons, including when
23 “identification creates a risk of retaliatory physical or mental harm.” (*Id.*) When a
24 pseudonym is sought to shield a party from retaliation, courts evaluate (1) the
25 severity of the harm, (2) the reasonableness of the anonymous party’s fears, (3) the
26 anonymous party’s vulnerability to such retaliation, (4) the precise prejudice to the
27 opposing party at each stage of the proceedings, and (5) the public interest. (*Ibid.*) All
28 of these factors weigh in favor of granting this motion.

1 **III. BACKGROUND AND DISCUSSION**

2 The Individual Plaintiffs filed applications for permission to use pseudonyms.
 3 (ECF nos. 03-07; Davis Decl., ¶15.) The City objected to those applications on various
 4 grounds, including failure to cite Civil Local Rule 7-11. (ECF no. 16; Davis Dec., ¶13-
 5 14.) The Individual Plaintiffs now submit this administrative motion in accordance
 6 with Rule 7-11, and include with it declarations that detail the conditions that each
 7 Individual Plaintiff experiences in the Tenderloin, and why they fear retaliation if
 8 their true names are publicly disclosed. (See Jane Roe Dec., ¶¶1-13; Declaration of
 9 Susan Roe Dec., ¶¶1-7; Mary Roe Dec., ¶¶1-7; John Roe Dec., ¶¶1-7; and Barbara Roe
 10 Dec., ¶¶1-8.) The versions of those declarations publicly filed in support of this
 11 motion have been redacted only to remove references to their true names, pursuant
 12 to the concurrently filed administrative motion to file unredacted versions under
 13 seal. (See Civil Local Rule 79-5.)¹

14 **A. Plaintiffs Are Particularly Vulnerable and Reasonably Afraid of** 15 **an Ongoing Threat of Severe Harm.**

16 This lawsuit seeks relief to address the allegedly rampant and dangerous
 17 narcotics trade and related criminal activities that openly occur in the Tenderloin.
 18 (ECF No. 1. ¶¶1-19; Davis Dec., ¶5.) The Individual Plaintiffs all reside in that
 19 neighborhood, and aver they must pass through drug dealers and users when they
 20 enter or exit their homes. (Jane Roe Dec., ¶¶3-6; Susan Roe Dec., ¶¶4-5; Mary Roe
 21 Dec., ¶¶3-5; John Roe Dec., ¶¶3-5, Barbara Roe Dec., ¶¶3-4.) Thus, they reasonably
 22 fear that revealing their true names would put them at risk of being hurt or killed in
 23 retaliation by persons involved in those criminal enterprises.

24 Plaintiffs may seek anonymity to protect themselves from retaliation by third
 25 parties. (*Does I thru XXIII*, 214 F.3d at 1070 [the trial court erred in discounting the

26
 27 ¹ The Individual Plaintiffs ask that should this Court deny the motion to seal their
 28 declarations, then they be given the opportunity to withdraw them. Some Individual
 Plaintiffs may decide not to remain involved in this litigation if the their true names
 are revealed in publicly filed documents.

1 threat of retaliation from the Chinese government and recruiting agencies for
 2 garment workers in Saipan.] The courts consider whether a plaintiff's surroundings
 3 and circumstances support anonymity to protect against possible threats of violence.
 4 (*Jane Roes 1-2 v. SFBSC Mgmt., LLC*, 77 F. Supp. 3d 990, 995 (N.D. Cal. 2015)
 5 [exotic dancers granted anonymity due to their proximity to possibly dangerous
 6 clientele.]) Here, the Individual Plaintiffs live in a neighborhood with frequent acts
 7 of violence that are believed to be connected to gang-related narcotics trade.² The
 8 Individual Plaintiffs' fears are reasonable and not speculative. For example, people
 9 on the sidewalk in front of Plaintiff Jane Roe's home have threatened to cut her
 10 throat and kill her. (Jane Roe Dec., ¶ 5-6.)

11 **B. There Would Be Little to No Prejudice to the City.**

12 There would be little to no prejudice to the City if the Court grants this
 13 motion. The Individual Plaintiffs have already agreed to disclose to the City their
 14 names and relevant information subject to a standard protective order.

15 The appropriate analysis is limited to the prejudice defendants presently
 16 suffer. (See *Does I thru XXIII*, 214 F.3d at 1072.) Possible prejudice at subsequent
 17 stages of the litigation does not weigh against permitting a plaintiff to proceed
 18 anonymously. (See *Doe v. County of El Dorado*, No. 2:13-CV-01433-KJM, 2013 WL
 19 6230342, at *5 (E.D. Cal. Dec. 2, 2013) [courts need not consider defendant's
 20 prejudice during discovery at the pre-discovery phase, but only "the relevant
 21 prejudice" that "defendant presently suffers as a result of plaintiff's anonymity."]; see
 22 also *Doe 1 v. GitHub, Inc.*, 672 F. Supp. 3d 837, 854 (N.D. Cal. 2023) [no prejudice at
 23 pleading stage when plaintiffs true names were disclosed to defendants subject to a
 24

25 ² See <https://www.sfchronicle.com/bayarea/article/drug-market-tenderloin-soma-18579159.php> (drug markets in Tenderloin are more violent and chaotic);
 26 <https://sfstandard.com/2024/03/13/san-francisco-fbi-agent-attacked-threatened/> (FBI
 27 agent attacked in Tenderloin and threatened to be exposed to drug dealers);
 28 <https://www.ktvu.com/news/tenderloin-shooting-leaves-1-dead-four-injured>
 (Tenderloin shooting, believed to be drug related, leaves 1 dead and 4 injured).

protective order]; (*Doe v. Rose*, No. CV-15-07503-MWF-JC, 2016 WL 9137645, at *2 (C.D. Cal. June 17, 2016) [rejecting argument that third party subpoenas and depositions cannot be conducted if plaintiff proceeds anonymously.])

C. The Public Interest Supports Anonymity.

Here, preserving the anonymity of the Individual Plaintiffs would be in the public's interest. The important issues of public concern presented by this lawsuit are furthered if the Individual Plaintiffs, who seek no monetary compensation, are not intimidated and fearful about going forward. (*Does I thru XXIII*, 214 F.3d at 1073 [fictitious names are in public's interest if it enables plaintiffs to bring legitimate claims that they would otherwise be deterred from bringing.]).

IV. CONCLUSION

For the foregoing reasons, the Individual Plaintiffs ask that this Court to grant their motion and permit them to use pseudonyms in publicly filed pleadings.

Dated: March 21, 2024

WALKUP, MELODIA, KELLY & SCHOENBERGER

By: /S/ Matthew D. Davis

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PROOF OF SERVICE

**Jane Roe, et al. v. City and County of San Francisco, et al.
Case No. 4:24-cv-01562-AMO**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the county where the mailing took place, My business address is 650 California Street, 26th Floor, City and County of San Francisco, CA 94108-2615.

On the date set forth below, I caused to be served true copies of the following document(s) described as

- **PLAINTIFFS' MOTION FOR ADMINISTRATIVE RELIEF
REQUESTING PERMISSION TO USE A PSEUDONYM ON PUBLICLY
FILED PLEADINGS**
- **DECLARATION OF MATTHEW D. DAVIS IN SUPPORT OF
PLAINTIFFS' MOTION FOR ADMINISTRATIVE RELIEF
REQUESTING PERMISSION TO USE A PSEUDONYM ON PUBLICLY
FILED PLEADINGS**
- **DECLARATION OF JANE ROE (A PSEUDONYM)**
- **DECLARATION OF MARY ROE (A PSEUDONYM)**
- **DECLARATION OF SUSAN ROE (A PSEUDONYM)**
- **DECLARATION OF JOHN ROE (A PSEUDONYM)**
- **DECLARATION OF BARBARA ROE (A PSEUDONYM)**
- **[PROPOSED] ORDER TO ALLOW PLAINTIFFS TO USE A
PSEUDONYM ON PUBLICLY FILED PLEADINGS**

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BY CM/ECF NOTICE OF ELECTRONIC FILING: I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on March 21, 2024, at San Francisco, California.



Kirsten Benzien